

Message Text

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ORIGIN FAA-00

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FM SECSTATE WASHDC

TO AMEMBASSY LAGOS

INFO AMEMBASSY BRUSSELS

UNCLAS STATE 080043

E.O. 11652: N/A

TAGS: EAIR, NI

SUBJECT: FAA ASSISTANCE TO NIGERIAN MINISTRY OF TRANSPORT

REF: LAGOS 02559; COKER/HOWERTON LTR MARCH 14

BRUSSELS AND LAGOS FOR FAA. FROM J.T.KINGSLEY, AIA-200

1. AS INDICATED TO MOT REPRESENTATIVES BY LUECKER/
HOWERTON DURING RECENT DISCUSSIONS, FAA HAS PROBLEM WITH
FOLLOWING POINTS LISTED IN ORDER OF IMPORTANCE:

A. ARTICLE VI (LIABILITY) CLAUSE PROPOSED BY MOT DIFFERS
SIGNIFICANTLY FROM STANDARD HOLD HARMLESS CLAUSE HERE-
TOFORE USED BY FAA. FAA LEGAL STAFF STUDYING SUBSTITUTE
LANGUAGE WHICH WOULD STAY WITHIN SPIRIT OF STANDARD CLAUSE
AND ACCOMMODATE INTENT OF MOT PROPOSAL. IN THAT VEIN,
FAA NEEDS CLARIFICATION AS TO MEANING OF FOLLOWING STATE-
MENT: QUOTE THE MINISTRY SHALL ALSO AT ITS OWN EXPENSE,
AND WHERE POSSIBLE, SATISFY ANY COURT JUDGMENT THAT MAY BE
GIVEN AS A RESULT OF ANY SUCH LAW SUIT OR CRIMINAL ACTION.

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END QUOTE. FAA WOULD APPRECIATE EMBASSY OBTAIN SPECIFIC

INTENT OF QUOTE WHERE POSSIBLE UNQUOTE.

B. ARTICLE X (LAW OF THE AGREEMENT AND SETTLEMENT OF DISPUTES) FAA FEELS NO NEED OR PRECEDENT FOR INCLUSION OF SUCH CLAUSE. SUCH LANGUAGE WOULD MAKE USG AGENCY SUBJECT TO A FOREIGN LEGAL SYSTEM CONTRARY TO ESTABLISHED USG POLICY. FURTHERMORE, FAA DOES NOT SEE NECESSITY FOR EVOLVING NEW MECHANISM FOR HANDLING SUCH PROBLEMS, SHOULD THEY OCCUR, WHEN RECOURSE TO DIPLOMATIC CHANNELS IS AVAILABLE. FAA CONVINCED THAT AMICABLE RESOLUTION OF DIFFERENCES WILL PREVAIL AND LOOKS FORWARD TO ESTABLISHING VALID RAPPORT WITH MOT.

C. ARTICLE IX (STATUS OF PERSONNEL) MOT PROPOSAL (PARAGRAPH IV B.2.) NEEDS TO BE REVISED SO AS TO BRING ITS SUBSTANCE IN LINE WITH APPLICABLE USG REGULATIONS, PROCEDURES AND PRACTICES.

2. WITH REGARD TO HOUSING QUESTION, FAA APPRECIATES EMBASSY CONCERN BUT IS NOT IN POSITION TO MAKE COMMITMENT IN VIEW OF QUESTIONS OUTLINED IN 1 ABOVE AND EXPECTATION THAT NEGOTIATION/COORDINATION PROCESS MAY BE LENGTHIER THAN ORIGINALLY ESTIMATED. MOT PROPOSAL GIVEN TO LUECKER/HOWERTON CONSTITUTED A SUBSTANTIAL REWRITE OF AGREEMENT.

3. FAA ANXIOUS TO BRING NEGOTIATIONS TO FRUITION BUT MUST EXERCISE CAUTION IN ASSURING THAT AGREEMENT PROVIDES ADEQUATE PROTECTION TO FAA AND ITS PERSONNEL SINCE ITS CAAG CHIEF WILL BE PERFORMING THE FUNCTIONS OF THE HEAD OF AN OPERATING AGENCY OF A FOREIGN GOVERNMENT.

4. FAA APPRECIATES EMBASSY ASSISTANCE IN CONVEYING TO MOT FAA GENUINE DESIRE TO DEVELOP WORKABLE TOOL WITHIN CONFINES OF ACCEPTABLE LEGAL BOUNDS. KISSINGER

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